

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

AI HUA MIAO,

Plaintiff

v.

CAIE FOODS PARTNERSHIP, LTD., *et al.*,

Defendants.

Case No. 3:22-CV-00463-ART-CLB

ORDER ADOPTING REPORT &
RECOMMENDATION OF MAGISTRATE
JUDGE (ECF NO. 60) AND ENTERING
DEFAULT AGAINST DEFENDANTS.

Before the Court is Magistrate Judge Carla L. Baldwin's Report and Recommendation (R&R), recommending default be entered against Defendants for their failure to defend this action under Fed. R. Civ. P. 55(a), and that Defendant's answer (ECF No. 31) be stricken. (ECF No. 60.) Neither party has filed an objection to the R&R.

Magistrate judges are empowered to issue reports and recommendations on dispositive issues, which district judges may "accept, reject, or modify, in whole or in part." 28 U.S.C. § 636(b)(1)(C). Where, as here, neither party objects to a magistrate judge's recommendation, the district court is not required to perform any review of that judge's conclusions. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985).

Judge Baldwin's R&R recommends dismissal because Defendants are not represented by counsel. Under Ninth Circuit law, a corporate entity may only appear in federal court when represented by counsel. *In re America West Airlines*, 40 F.3d 1058, 1059 (9th Cir. 1994); *see also C.E. Pope Equity Trust v. United States*, 818 F.2d 696, 697–98 (9th Cir. 1987); *Church of the New Testament v. United States*, 783 F.2d 771, 77–74 (9th Cir. 1986). Defendants have been advised repeatedly by the Court that they are required to defend this action through

1 representation by counsel. (ECF Nos. 57, 59.) On July 31, 2024, the Court
2 ordered Defendants to file a substitution of counsel by August 30, 2024, which
3 Defendants failed to do. (ECF No. 57.) Defendants were then notified on
4 September 3, 2024, that if they did not file a substitution of counsel by October
5 3, 2024, the Magistrate Judge would enter a report and recommendation
6 recommending that Defendant's answer be stricken and default be entered
7 against them. (ECF No. 59.)

8 The Court agrees with Judge Baldwin's reasoning and adopts her R&R in
9 full. Defendants have failed, despite numerous warnings from the court, to enter
10 an appearance of counsel. Therefore, Defendants have failed to defend this action
11 and default must be entered pursuant to Fed. R. Civ. P. 55(a).

12 **Conclusion:**

13 It is therefore ordered that Judge Baldwin's Report and Recommendation
14 (ECF No. 60) is ADOPTED in full.

15 It is further ordered that Defendant's answer (ECF No. 31) is STRICKEN.

16 It is further ordered that the Clerk of the Court ENTER DEFAULT against
17 Defendants by reason of their failure to defend this action pursuant to Fed. R.
18 Civ. P. 55(a).

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20 Dated this 7th day of November, 2024.

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23 ANNE R. TRAUM
24 UNITED STATES DISTRICT JUDGE
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